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California Energy Commission
1516 Ninth Street
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RE: Opposition to Reallocation of Renewable Energy Program Funds – Response to Draft 2006 Renewable Energy Investment Plan (Docket No. 00-REN-1194)

Dear Commissioners:

The Draft 2006 Renewable Energy Investment Plan Report recommends a reduction in the amount set aside for above-market RPS costs.[1] The Draft Report also acknowledges that the Energy Commission ("CEC") does not currently have the authority to take such action, but recommends that a legislative change be sought, and claims that the proposed reduction in the availability of supplemental energy payment ("SEP") funds is justified by the rising price of natural gas and the number of contracts signed to date without the need for SEP funds.[2] Sempra Energy, on behalf of San Diego Gas and Electric Company, opposes any reduction to the amount of funds currently allocated for above-market RPS costs in the New Renewable Facilities Program ("NRFP") and any legislation that would allow the Commission to transfer money out of the NRFP account for other purposes.

As the Draft Report acknowledges, "the RPS program, accelerated to reach 20 percent by 2010 statewide, is central to meeting California's renewable resource goals."[3] Thus, it is critical that the Energy Commission avoid taking action that will compromise the effectiveness of the RPS. Parties to the RPS proceeding have been working collaboratively with the CPUC and CEC for over four years to implement the RPS program and there has been measurable progress – SDG&E has, for example, significantly increased its level of operating and contracted-for renewable energy – but many crucial aspects of the RPS program have yet to be fully developed. The CPUC has only recently, for example, initiated a proceeding to consider participation of Energy Service Providers ("ESPs"), Community Choice Aggregators ("CCAs") and small and multi-jurisdictional utilities in the RPS program and to explore the unbundling of renewable energy credits ("RECs"), and major challenges such as the adequacy of transmission facilities continue to exist. Unnecessarily encumbering development of the RPS program with additional obstacles will serve to delay rather than promote future renewable development.

Reducing the availability of SEP funds may force the utilities to accept riskier, lower-cost bids, which will result in an increase in the failure rate of renewable energy contracts. A recent report entitled

1 Draft Report, pp. 27-28.
2 Draft Report, pp. ES-4, 21-22, 24-28.
3 Draft Report, p. 18.

"Building a 'Margin of Safety' Into Renewable Energy Procurements: A Review of Experience with Contract Failure" released by the Energy Commission (the "Contract Failure Report"), found that financing troubles and capital cost increases contribute to the current high failure rate experienced with renewable energy contracts.[4] The Report describes projects in the United Kingdom that experienced poor success rates due in part to the fact that "the UK government was intensely focused on reducing costs" and therefore "encouraged generators to bid speculatively based on expectations of declining technology costs."[5] The Report further notes that "Nevada utilities observe that the lowest-price bids that they have received have often come from the developers with modest or non-existent track records, while more experienced developers have tended to offer the highest prices. Other utilities confirmed this view."[6] Reallocating SEP funds will have the effect of imposing unrealistic pricing pressures on renewable energy developers, which will cause an increase in speculative bids and a corresponding increase in project failure rates.

SDG&E further notes that any reduction in the availability of SEP funds will severely undermine the continued development of the market for renewable energy resources. Renewable developers and their investors require assurance that SEP funds will be available over the long-term. Reduction in the availability of SEPs will create a sense of uncertainty and heightened risk that may have a negative impact on future renewable investments.[7] The conclusion that SEP funds will continue to be under-utilized is speculative and premature. As the Draft Report acknowledges, "while the contracts signed to date have not required SEPs, it is uncertain whether the same will be true for future contracts."[8] As additional entities such as publicly-owned utilities and CCAs begin to procure renewable resources more aggressively, it is likely that prices for renewable energy will rise, thereby increasing reliance on SEP funds. Accordingly, current SEP funding levels should be preserved and the commitment to maintaining the availability of these funds should be reinforced, thus allowing the investment community to plan for future renewable projects, which, by their nature, have long lead times.

Yours sincerely,

Bernie Orozco

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4 Contract Failure Report, p. 24.
5 Contract Failure Report, pp. 31-32.
6 Contract Failure Report, p. 25.
7 The harm caused by the varying availability of subsidies was described in the Contract Failure Report in connection with the federal Production Tax Credit ("PTC"). The Report noted that "[t]he on again/off again nature of the Production Tax Credit (PTC) for the past few years has made the availability of subsidies a serious problem for the wind industry." (Contract Failure Report, p. 7).
8 Draft Report, p. 23.